

## **South Carolina Department of Insurance**

### **Alternative Risk Transfer Services**

#### **General Instructions for Letters of Credit**

1. The letter of credit shall be printed on the issuing banks stationary or other format customarily used by the bank for letters of credit.
2. The format may be modified by the bank to suit its customary letter of credit format, however the beneficiary, applicant, and for the benefit of, must be clearly shown.
3. The beneficiary shall be the South Carolina Department of Insurance; the applicant shall be the entity, usually the parent of the captive insurance company, who will be securing the letter of credit; for the benefit of, is the captive insurance company.

The applicant is not the captive insurance company.

4. The wording in the letter of credit must exactly match that provided in the sample attached to these instructions.
5. Paragraph two in the sample letter of credit is often misunderstood. It means the issuing bank may not seek recourse against the assets of the captive insurance company if the letter of credit is drawn upon in whole or in part. However, the bank may seek recourse against the applicant.

This distinction is very important because §§38-90-40 and 50 of the South Carolina Code of Laws requires capital and surplus to be free and unencumbered. Permitting the bank to seek recourse against the captive would encumber the capital and surplus thereby preventing the letter of credit to be used for capital and surplus by the captive insurance company.

6. Any questions about the South Carolina Letter of Credit Form may be directed to the Alternative Risk Transfer Services Department of the South Carolina Department of Insurance at [captivemail@doi.sc.gov](mailto:captivemail@doi.sc.gov) or by calling 803-737-6175.